

22 5323

LAW OFFICES  
**JOHN D. HEFFNER, PLLC**  
1750 K STREET, N.W.  
SUITE 200  
WASHINGTON, D.C. 20006  
PH: (202) 296-3333  
FAX: (202) 296-3939

July 1, 2009

Ms. Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423

VIA ELECTRONIC FILING

Re: STB Finance Docket No. 35141  
U S Rail Corporation - Construction and Operation Exemption -  
Brookhaven Rail Terminal

Dear Ms. Quinlan,

Please accept this joint status report from Petitioner U S Rail Corporation ("U S Rail") and Respondent Town of Brookhaven ("Town") in the above captioned proceeding. We are furnishing this status report pursuant to the Board's June 12, 2009 Decision.

US Rail is currently engaged in negotiations with the Town Attorney. The parties are actively working on a draft stipulation resolving all open issues between them. The Town will be discussing the status of negotiations, including the draft stipulation, at the executive session portion of its Town Board meeting on July 7, 2009.

We shall continue to keep the Board advised.

Respectfully submitted,  
John D. Heffner, PLLC

*James H M Savage*  
By: James H. M. Savage  
Of Counsel

Attorneys for Petitioner  
US Rail Corp.

Respectfully submitted,  
Mark A. Cuthbertson

*Jessica P Driscoll*  
By: Jessica P. Driscoll

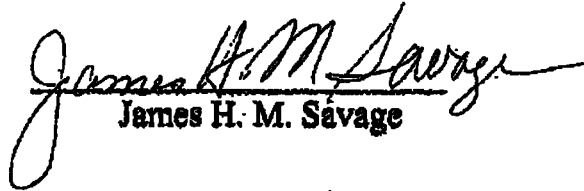
Attorneys for Respondent  
Town of Brookhaven

JHS/mhd

cc: Jessica Driscoll, Esq.  
Robert A. Ryback

## CERTIFICATION OF SERVICE

I, James H. M. Savage, an attorney-at-law of the District of Columbia, certify that I have served this day by electronic mail a true copy of the within pleading upon counsel for the Town of Brookhaven and by first class mail upon the New York State Department of Transportation.

  
James H. M. Savage

Dated: July 1, 2009

## SERVICE LIST

Party of Record: Town of  
Brookhaven

Mark A. Cuthbertson & Jessica P. Driscoll  
Law Offices of Mark A. Cuthbertson  
434 New York Avenue  
Huntington, NY 11743

Party of Record: New York  
State Department of  
Transportation

Robert A. Rybak  
50 Wolf Road  
Albany, NY 12232